

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 27641; Amendment No. 21-75]

RIN 2120-AG39

Primary Category Seaplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This direct final rule increases the maximum weight limit for seaplanes that are proposed for type certification in the primary category. When the Federal Aviation Administration (FAA) established the 2,700-pound maximum weight limit for primary category aircraft, it did not consider seaplanes. Seaplanes generally weigh more than comparable landplanes because of the increased airframe weight and drag associated with their designs. Therefore, the 2,700-pound maximum weight limit for primary category aircraft results in a significantly inferior performance, range, and payload when applied to seaplanes than was originally intended for primary category aircraft. The FAA has determined that a 3,375-pound maximum weight limit would provide seaplanes with a level of utility comparable to primary category landplanes.

DATES: Effective February 23, 1998.

Comments for inclusion in the Rules Docket must be received on or before December 26, 1997.

ADDRESSES: Comments on this direct final rule should be delivered, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel (AGC-200), Attention: Rules Docket, Docket No. 27641, 800 Independence Avenue, SW., Washington, DC 20591.

Comments also may be submitted electronically to the following Internet address: 9-NPRM-CMTS@faa.dot.gov.

Comments submitted must be marked: Docket No. 27641.

Comments may be examined in Room 915G on weekdays between 8:30 a.m. and 5:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Brian A. Yanez, Certification Procedures Branch (AIR-110), Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-9588.

SUPPLEMENTARY INFORMATION:

Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, is issuing it as a direct final rule. The subject of this rulemaking was raised previously in the Federal Register through the publication of a notice of a petition for exemption to permit an amphibious airplane to be type

certificated in the primary category with a maximum weight of 3,300 pounds. The FAA received 115 favorable comments and no negative comments on the proposed increased weight limit.

Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received on this direct final rule within the comment period, the regulation will become effective on the date specified. After the close of the comment period, the FAA will publish a document in the Federal Register indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective.

If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the Federal Register, and a notice of proposed rulemaking (NPRM) may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by an NPRM, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Comments should identify the Rules Docket

number and be submitted in triplicate to the address specified under the caption "**ADDRESSES.**" All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports a commenter's ideas and suggestions is helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Substantive comments should be accompanied by cost estimates. All comments submitted will be available, before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this action will be filed in the docket.

Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 27641." The postcard will be date stamped and returned to the commenter.

Availability of Final Rule

Using a modem and suitable communications software, an electronic copy of this document may be downloaded from the

FAA regulations section of the FedWorld electronic bulletin board service (telephone: 703-321-3339) or the Federal Register's electronic bulletin board service (telephone: 202-512-1661).

Internet users may reach the FAA's web page at <http://www.faa.gov> or the Federal Register's web page at http://www.access.gpo.gov/su_docs for access to recently published rulemaking documents.

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Communications must identify the amendment number or docket number of this direct final rule.

Background

Statement of the Problem

On December 22, 1993, a manufacturer of amphibious kit planes petitioned the FAA for exemption from the maximum weight limit for type certification of primary category aircraft in § 21.24(a)(1)(ii) of Title 14, Code of Federal Regulations (14 CFR). The manufacturer listed the individual components that cause amphibious airplanes to weigh more than landplanes with a comparable utility. On May 10, 1994, a summary of the petition was published in the Federal Register (59 FR 24209) for public comment. The FAA

subsequently determined that the manufacturer's request should be addressed in a rulemaking action rather than through the exemption process, because the relief sought addressed the general applicability of the type certification requirements for primary category aircraft.

History

On September 9, 1992, the FAA published in the Federal Register (57 FR 41360) a final rule establishing a new certification category for personal- and recreational-use aircraft, known as primary category aircraft. The final rule established simplified procedures for type, production, and airworthiness certification, and associated maintenance procedures for these aircraft. The intent of the rule was to: (1) provide a category for aircraft that are less costly to certificate, produce, purchase, and maintain than current normal category aircraft; (2) stimulate the introduction of new, less costly aircraft designs; (3) enable kit manufacturers to fill the demand for low-cost aircraft; and (4) improve the safety of kit-built aircraft presently being certificated as experimental, amateur-built aircraft.

Primary category airplanes may be unpowered or powered by a single, naturally aspirated engine, with a stall speed of 61 knots or less. These airplanes are limited to a maximum weight of 2,700 pounds, a maximum seating capacity

of four persons, and an unpressurized cabin. Seaplanes were not considered when the primary category weight limit was established.

Discussion

A seaplane is an airplane designed to take off from and land on water. A seaplane can be classified as a flying boat, whose hull is the means of support on the water, or a floatplane, which is supported on the water by one or more floats. Amphibious airplanes are seaplanes designed to take off from and land on either water or land.

Seaplanes generally weigh more than comparable landplanes due to the increased airframe weight and drag associated with their designs. Therefore, the 2,700-pound maximum weight limit for primary category aircraft results in a significantly inferior performance, range, and payload when applied to seaplanes than was originally intended for primary category aircraft. The following features may contribute to a seaplane's increased weight:

- (1) A requirement for more horsepower to counteract the increased drag of the hull/step configuration and sponsons. Seaplanes typically require a six-cylinder engine rather than the lighter four-cylinder engine used on landplanes weighing less than 2,700 pounds;

(2) Increased structural strength of the airplane's pylon or tail structure to support the engine and propeller, which are usually mounted above the hull;

(3) Larger elevators and stabilizers to overcome the vertical pitching forces and a larger rudder for yaw stability due to the high thrust line;

(4) A water rudder mechanism for taxiing in the water;

(5) Structural strengthening of the hull (including skin strength, bulkheads, and longerons) to withstand water takeoff and landing loads;

(6) Wing sponsons and necessary reinforcement of the wing structure to carry additional loading; and

(7) Retractable landing gear to permit operations from water or land.

Because seaplanes weigh an average of 25 percent more than comparable landplanes, this rule increases the maximum weight limit by 25 percent, to 3,375 pounds, for seaplanes certificated in the primary category. This increase should offer primary category seaplanes a level of utility comparable to primary category landplanes.

Currently, many seaplanes are certificated as experimental airplanes. The inclusion of seaplanes in the primary category will result in safety benefits by standardizing the design and construction processes of these airplanes through the type certification process. The FAA

notes that kit-built seaplanes are eligible for certification in the primary category if the kit is supplied by an FAA-approved manufacturer and is assembled under the supervision and quality control of the production approval holder.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), there are no reporting or recordkeeping requirements associated with this direct final rule.

International Compatibility

The FAA has reviewed corresponding International Civil Aviation Organization (ICAO) standards and Joint Aviation Authorities (JAA) regulations and found no comparable primary category certification standards. The FAA notes that because primary category aircraft have a special airworthiness certificate rather than an airworthiness certificate based on ICAO Annex 8 standards, owners of U.S.-registered primary category aircraft would require prior permission of the appropriate airworthiness authority to operate outside the United States.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs Federal agencies to consider, for new regulations or modifications to existing regulations, if the potential

benefits to society outweigh the potential costs. Second, the Regulatory Flexibility Act (RFA) of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these assessments, the FAA has determined that the proposed rule: (1) would generate benefits exceeding its costs and is not "significant" as defined in Executive Order 12866; (2) would not be "significant" as defined in the Department of Transportation's (DOT) Policies and Procedures; (3) would not have a significant impact on a substantial number of small entities; and (4) would not restrain international trade. These analyses, available in the docket, are summarized below.

The rule will provide the opportunity to reduce certification and manufacturing costs for seaplanes weighing between 2,700 and 3,375 pounds that otherwise would be certificated under § 21.21. The rule makes available simplified procedures for type, production, and airworthiness certification, and associated maintenance procedures for these aircraft. The certification basis and standards afforded by this amendment will be an option for the affected parties. Manufacturers and owners/operators will only select the new alternative if it is in their own

best economic interests to do so. Therefore, the FAA concludes that the rule will be cost beneficial.

Regulatory Flexibility Determination

The RFA of 1980 was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule will have a significant economic impact, detrimental or beneficial, on a substantial number of small entities. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, establishes threshold cost values and small entity size standards for complying with RFA review requirements in FAA rulemaking actions. Since the alternatives afforded will be optional, the rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Statement

The rule will not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries and the import of foreign goods and services into the United States.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among

the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), codified as 2 U.S.C. §§ 1501-1571, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more (adjusted annually for inflation) in any one year.

This rule does not meet the thresholds of the Act. Therefore, the requirements of Title II of the Act do not apply.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and International Trade Impact Analysis, the FAA has determined that this regulation is not significant under Executive Order 12866. In addition, the FAA certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility

Act. This regulation is not considered significant under DOT Order 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulations. A final regulatory evaluation of the regulation, including a final Regulatory Flexibility Determination and International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 14 CFR Part 21

Aircraft, Aviation safety, Exports, Imports, Primary category, Reporting and recordkeeping requirements.

THE AMENDMENT

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 21 of the Federal Aviation Regulations as follows:

PART 21 – CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

1. The authority citation for part 21 continues to read as follows:

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701-44702, 44707, 44709, 44711, 44713, 44715, 45303.

2. Section 21.24 is revised to read as follows:

§ 21.24 Issuance of type certificate: primary category aircraft.

(a) * * *

(1) * * *

(ii) Weighs not more than 2,700 pounds; or, for
seaplanes, not more than 3,375 pounds;

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Issued in Washington, DC, on November 19, 1997

/s/ Jane F. Garvey
Administrator